

EXHIBIT 1

Filed Under Seal

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF OKLAHOMA
05 APR -6 PM 2:58
WILLIAM B. GUTHRIE, CLERK
DEPUTY CLERK

THE UNITED STATES,

Plaintiff,

-v.-

KENNETH EUGENE BARRETT,

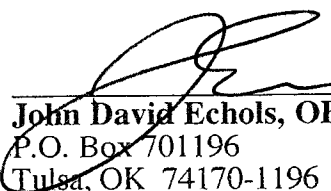
Defendant.

Case No. CR-04-115-P

TENTH EX PARTE MOTION CONCERNING THE FUNDING OF MR. BARRETT'S DEFENSE

Pursuant to this Court's Order of November 23, 2004, counsel for Mr. Barrett submit the enclosed *ex parte* motion concerning the funding of his defense under seal and without notice to the government. [Counsel]

Respectfully submitted as of April 6, 2005


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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

THE UNITED STATES,

Plaintiff,

-v.-

KENNETH EUGENE BARRETT,

Defendant.

Case No. CR-04-115-P

EX PARTE APPLICATION FOR PERMISSION TO WITHDRAW AS COUNSEL FOR MR. BARRETT

The undersigned, John Echols, applies to the Court for an Order granting him permission to withdraw as Mr. Barrett's counsel in this case. In support of this application, counsel would inform the Court of the following:

1. This capital case is set for jury trial on August 1, 2005, less than 4 months from this date.
2. Although substantial effort has been expended on the issue, there is as of this date no adequate budget for Mr. Barrett's defense.
3. On April 1, 2005, Magistrate Shreder issued a REPORT AND RECOMMENDATION regarding attorney fees which, *inter alia*, rejected all compensation for time expended in developing defense budgets and contacting prospective experts and investigators. This represents a substantial amount of time expended on a necessary and critical aspect of Mr. Barrett's defense. Denying compensation for this time imposes an unreasonable burden on counsel's representation of Mr. Barrett.
4. The relationship between the undersigned and co-counsel, Roger Hilfiger, is cordial, but we have not been able to work effectively together, and virtually all of the work performed on pleadings, budgeting and other issues has been performed by Mr. Echols.


5. The Court's March 18, 2005, Order regarding the allocation of attorney time by category and by attorney impairs the independent judgment of Mr. Barrett's attorneys and imposes an unreasonable burden on his defense.
6. In my opinion, under these circumstances I am not in a position to provide Mr. Barrett with constitutionally adequate representation, and it is necessary and appropriate for me to apply for permission to withdraw as his counsel.
7. Upon being informed of the reasons for submitting this application, Mr. Barrett stated that he wanted me to continue to represent him in this proceeding, but that he understood the reasons for this application and agreed that under these circumstances he is not receiving constitutionally adequate representation.

CONCLUSION

For the reasons stated, John Echols applies to the Court for an Order permitting him to withdraw as Mr. Barrett's counsel.

**SIGNATURE OF COUNSEL
AND CERTIFICATE OF SERVICE**

Respectfully submitted as of April 6, 2005



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